

2003 Annual Pro Bono Report and Plan District Five



Promoting Equal Access to Justice And Pro Bono Opportunities

This Pro Bono Report and Plan is made pursuant to Rule 6.5 of the Indiana rules of Professional Conduct.

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Governance:

The Committee is chaired by Judge Thomas Perrone. The bar association president of each county or his/her designee shall represent each County within the District. Each legal service provider providing services within the District shall also be represented on the Committee. There shall be at least one member who has been a recipient of pro bono services. Membership on the committee shall be perpetual for all bar presidents within the District. Non-lawyers on the committee shall serve at their pleasure.

Plan Administrator:

The plan administrator is the district chairman, Judge Perrone. He will coordinate the Committee and provide oversight for the Committee's activities. This position is not funded.

Prior year progress:

There was a problem that was a continuation of the problem encountered last year; there was no organization able to handle the funding on behalf of the District. The former Legal Services provider, LSPNI, declined to administer the funds due to problems posed by a pending merger. The merger was completed May 1, 2001. However, by the time that the District was able to work out an agreement with Indiana Legal Services, the funds for both 2001 and 2002 had been awarded. It was not until mid-March 2002 that an agreement was finally completed and the funds actually released. The Committee has produced and distributed 2,000 "Parenting Time Guidelines" booklets.

Indiana Legal Services has continued to provide basic intake, screening, placement, and follow-up activities for the District.

Existing Services, Programs and Funding Sources:

Indiana Legal Services Inc.

Indiana Legal Services ("ILS") is the new LSC funded program providing legal assistance to low-income and elderly clients in all of Indiana, including District Five. It assumed operation of the Lafayette office of the Legal Services Program of Northern Indiana, Inc. (LSPNI), effective May 1, 2001. ILS has continued to be involved in promoting pro bono representation. It will continue working with the District Five Pro Bono Committee. Earlier this year, ILS conducted a client needs assessment in the District as a part of its statewide assessment to help guide the program in providing client services. The results should be out later this year.

ILS has policies and procedures for screening and referring cases to pro bono attorneys, following up on those cases, recording the hours the attorneys spend on each case, and assessing client satisfaction, including a client grievance procedure. ILS operates the program in a way which is consistent with the Rules of Professional Conduct, that assures client confidentiality, and that avoids conflicts of interest.

ILS has worked with the committee to assure that the district plan is as consistent as possible with the ABA Standards for Pro Bono Programs, and continues to strive to minimize any types of barriers that would inhibit client access to services. ILS has worked with and will continue to work with the Committee to provide educational opportunities for clients and pro bono attorneys and provide recognition of the pro bono attorneys. ILS will continue to assist with certain supportive services including malpractice insurance and administering an extraordinary litigation fund to help handle out of the ordinary expenses (depositions, expert witnesses, medical consultations, etc.) for pro bono cases.

Howard County Legal Aid

Howard County Legal Aid is a local voluntary program organized by the Howard County Bar Association. It serves only low-income residents of Howard County. Presently 23 attorneys participate in the legal aid program on a weekly rotational basis. The Legal Aid attorney meets with prospective clients on Tuesday afternoon in the Courthouse where the attorney screens clients and provides basic advice or schedules appointments for eligible clients needing more than advice.

Mediation Program, Wabash

This is a faith-based mediation project in Wabash County. It provides low-cost to free mediation depending on the type of case. Presently it has a nominal charge for civil cases.

Current Delivery System

Presently, Indiana Legal Services is the primary point of entry for most clients in District Five to access pro bono attorneys. Clients needing assistance contact ILS and place an application over-the-phone or in person. Applications are reviewed weekly by ILS attorneys and staff for eligibility and possible representation by an ILS attorney, a pro bono attorney, or for basic advice without representation.

If a client meets ILS guidelines and a pro bono attorney is available who handles that type of case, the attorney is contacted regarding availability and conflicts. If the attorney is available, the case is referred to the attorney and monitored periodically until the attorney indicates the case is closed. At that time the attorney is asked to provide a summary including the outcome of the case and the hours spent on the case.

ILS administers the District's extraordinary litigation fund to cover out of the ordinary expenses for the cases it refers to volunteer attorneys. The attorney must make a request for monies from this fund in advance of the expenditure. Ordinary out of pocket expenses are not reimbursed. ILS also carries malpractice insurance for each case referred to the VLP. An ILS paralegal/pro bono coordinator is responsible for the actual referral and follow-up of pro bono cases. Depending on the case, ILS offers sample forms such as *informa pauperis* pleadings and orders to encourage the attorneys to handle pro bono cases.

PROBLEM STATEMENTS/RECOMMENDATIONS

Summary

1. Inability to afford representation.
2. Insufficient number of attorneys involved in an organized pro bono plan.
3. Lack of knowledge about legal rights, responsibilities, and availability of legal assistance.
4. Lack of knowledge and confidence for pro se litigants.
5. Need for basic consultations.

Problem/Barrier #1

Inability to afford representation.

Supporting Data:

- Legal Needs Study of the Poor in Indiana, 1992
- The Legal Needs of Low-Income Hoosiers, October 1999
- The number of calls ILS receives from clients seeking representation
- ILS priority setting meeting in District Five

Activities to Meet the Need:

A. Interviewing and Eligibility Determination

Indiana Legal Services will be primarily responsible for interviewing prospective clients and determining eligibility for clients in all of District Five.

The Howard County Legal Aid attorneys will continue to do their own interviewing and eligibility determinations.

B. Case Referral

People of limited means will be represented by case referral to pro bono attorneys. The Committee will provide financial support to Indiana Legal Services to assist them in their efforts to continue this function.

In Howard County, persons of limited means will receive representation through direct contact with a Legal Aid attorney. The Howard County Legal Aid attorney will determine financial eligibility using guidelines determined by the Howard County Bar Association. There is a lack of data regarding the number of clients screened, provided with consultations, and represented by the Howard County Legal Aid. The Committee will work with the person who oversees its operation and try to determine ways of obtaining basic data.

Attorneys in all the district counties will be encouraged to refer possible pro bono cases to Indiana Legal Services for eligibility determination and possible referral. The attorneys are also encouraged to contact Legal Services directly if they have a client they would like to represent pro bono, and want the advantages (such as malpractice insurance, research, extraordinary litigation expenses, etc.) of having that client go through the district pro bono program.

C. Encourage Informa Pauperis Filings

Provide pro bono attorneys with sample forms upon referral of any client when the referring agency deems it might be appropriate and/or upon request by the attorney.

Expected Results / Benchmarks:

It is anticipated that 50 to 80 clients in District Five will be represented through referral to the private bar by Legal Services with the addition of a part-time paralegal position..

Costs:

ILS Staff time to process applications, refer, and follow-up on pro bono cases.

Printing, mailing, phone charges.

Problem/Barrier #2

Insufficient number of attorneys involved in an organized pro bono plan to meet the need and under utilization of current volunteer attorney resources.

Supporting Data:

- Legal Needs Study of the Poor in Indiana, 1992
- The Legal Needs of Low-Income Hoosiers, 1999
- The number of applications taken and screened by Indiana Legal Services
- The number of attorneys in the District compared to the number of those participating in a pro bono program. (Out of 216 attorneys in the District, only 57 are involved in an organized pro bono effort; 23 in Howard County and 34 on the District's panel.)

Activities to Meet the Need:

- A. Provide sufficient funding to Indiana Legal Services to significantly increase staff time committed to the pro bono efforts in the District. Indiana Legal Services and its predecessor both committed significant resources promoting and operating a pro bono program for many years. Through Legal Services, there has been a functioning pro bono program in District Five since 1997. Although helpful in promoting the pro bono program, the additional funding has not been sufficient to increase the overall staffing so that ILS can commit sufficient staff time to activities beyond basic intake, screening, placement and follow-up. Presently the ILS staff member who provides pro bono management services to the District is able to commit less than one quarter time to pro bono activities in District Five.

In the field of volunteerism, a long established principle is that volunteers are not without cost, and one of the basic costs is providing support activities and management to the volunteer project.

In considering the activities necessary to effectively operate the District's Pro Bono Plan and move beyond the current level of service, it has become apparent that it will be necessary to increase the staffing and therefor the staff time that ILS will be able to commit to the District's Plan. The plan calls for monies sufficient to help fund a part time paralegal.

- B. The Committee will continue to work with the Bench and Bar in each county to encourage attorney participation. Each attorney committee member is encouraged to participate in one or more of the pro bono programs existing in the district and is asked to actively recruit at least one new pro bono attorney from their local bar.

As both a recruiting tool and as recognition, the Committee is exploring the possibility of developing a referral list. The volunteer attorneys would be asked what kind of fee-generating cases they would be willing to consider handling and then place their names on a referral list. This list would be sent to applicants when it is discovered that they have a potentially fee generating case.

One of the growing trends in the field of Volunteerism is project-based volunteering. Today's volunteers want a volunteer opportunity where they know the extent of their involvement, i.e. a project. To supplement more traditional recruiting methods and to take advantage of this trend, the Committee will continue to develop specific lists of needs and recruit an attorney to handle each item on that list. (e.g. Need: One attorney in XYZ county

to handle one divorce in 2003 where custody will be an issue. Need: One attorney in XYZ county to handle two uncontested divorces in 2003, etc.)

- C. Provide intake, screening, and referral of prospective clients:
This activity is to be provided through Indiana Legal Services. Indiana Legal Services recognizes that the private bar has experience and expertise in handling many different types of cases outside those cases traditionally handled by Legal Services. To provide clients with as broad range of services as possible, the Lafayette office of ILS is in the process of fine-tuning its intake to utilize the full range of available pro bono resources.
- D. Matching cases with individual attorney expertise:
Legal Services will be primarily responsible for maintaining a list of pro bono attorneys in District Five, the types of cases they are willing to handle, and matching clients with the attorneys.
- E. Provide resources for litigation and extraordinary out-of-pocket expenses by contributing to the “extraordinary litigation expense fund” to be handled through Indiana Legal Services.
- F. Malpractice Insurance:
Will be provided through Indiana Legal Services on each case referred through its office to a volunteer attorney
- G. Recognition:
The Committee will develop ways of providing recognition for the pro bono attorneys.

Expected Results / Benchmarks:

Recruit two attorneys in each county who are willing to handle case types where there is a high demand, such as divorces. Place at least one case in each county with an attorney who handles more unusual problems that are otherwise low priorities for ILS.

Costs:

- ILS Staff time
- Travel
- Extraordinary Litigation Fund
- Malpractice Insurance Premiums
- Printing and Mailing and communication costs for recruiting, etc.

Problem/Barrier #3

Lack of knowledge about legal rights, responsibilities and availability of legal assistance to persons of limited means. Inability to recognize when the services of a lawyer are needed.

Supporting Data:

- Legal Needs Study of the Poor in Indiana, 1992
- The Legal Needs of Low-Income Hoosiers, October 1999
- Data from ILS intake
- Results of the ILS District Five priority setting meeting

Activities to Meet the Need:

A. Educational Presentations:

At least one informational meeting will be held each year in every county in the District. The committee member in each county will be responsible for locating an appropriate forum and will work with ILS and other social service providers in regards to location, scheduling and promoting the event. Whenever possible, the meeting will be scheduled in conjunction with a larger function that will be well publicized to help increase attendance. The committee member and ILS staff will coordinate the publicity for the meeting which can include, but is not limited to: contacting social service providers, neighborhood organizations, placing public service announcements, press releases, notices in the courthouse and informing the private bar. Legal Services will work with the Committee and provide necessary support for the Committee.

The Committee shall decide the topic and be responsible for recruiting a speaker or speakers, preferably a pro bono attorney. Information shall be given not only concerning individual rights, but also responsibilities, how to avoid common problems, and, if appropriate, how to represent oneself in these matters. There will be a question and answer session at the end of each presentation.

A handout shall be available and offered to those attending summarizing the presentation and shall be made available to any other interested persons upon request. In most instances, it should be possible to utilize materials that have already been prepared by other providers such as the Indiana Bar Association, Legal Services, etc. Alternatively, the committee members or the speaker could prepare the hand out materials.

Every informational meeting will also include information about the legal resources available to persons of limited means in that county. It is anticipated that 150 to 200 people will be able to learn about their rights and how to better assert their rights through such meetings.

Costs:

ILS staff time

Printing and mailing, handouts, etc.)

Promotional Costs - Getting the word out to clients and service providers

Travel

Misc. costs for educational programs (hall rental, refreshments, etc.)

Problem/Barrier # 4

Lack of knowledge and confidence for pro se litigants to effectively represent themselves.

Supporting Data:

Report on the National Conference on Pro Se Litigation, November 1999

ILS Priority Setting meeting in District Five

Activities to Meet the Need:

- A. The commitment of the Bench is essential in any matter being handled pro se. The Committee shall seek and encourage the cooperation and support of the courts in each county to make pro se representation work.
- B. The Committee shall work with Legal Services to make pre-printed pro se forms and instructions available to low income litigants in simple uncontested divorces to begin with, and other areas as the pro se project develops forms. Although many of the materials are available on-line, it is recognized that not all clients have access to or would be otherwise able to utilize the materials on-line and may need assistance in completing the forms. Legal Services will determine eligibility and screen for criteria set by the Committee.
- C. The committee will work to recruit one or two attorneys in each county who will be willing to meet with three to four pro se litigants each year to answer questions about the process and completing the forms.

Expected Results / Benchmarks:

It is expected that at least 20 to 30 clients could be served through a supported pro se program each year.

Costs:

Communication costs (Phone, postage, etc.)

ILS staff time for screening, and processing applications.

Printing and distribution.

Promotion – getting the word out to clients and other service providers.

Problem/Barrier #5

Need for basic consultation with an attorney.

Supporting Data:

ILS Priority Setting meeting in District Five
ILS intake data and experience

Activities to Meet the Need:

Many times, low-income clients need basic information about their rights, advice to determine a course of action and/or to avoid problems. However, more often than not, they are fearful of even entering an attorney's office to ask for help. Although ILS is able to provide some counsel on a limited number of issues, clients often need information in matters with which ILS attorneys are not experienced. Clients may even have a fee-generating case and still be fearful of going to see an attorney. They simply feel intimidated and are fearful of the cost, even though many attorneys offer initial low-cost or free initial consultations. These clients simply need "permission" to see an attorney.

To help clients overcome this fear and obtain needed legal counsel, the Committee will recruit attorneys who would be willing to provide an hour's free consultation to pre-qualified clients. ILS will screen clients who need basic advice on matters that ILS is not able to handle, match that need with an attorney, and provide a referral letter or "Consultation Certificate". Attorneys will receive one hour's credit on consultations. If the attorney determines that the client needs full representation, the attorney would be free to accept the case as a pro bono case, refer it back to ILS, or if it is fee-generating, to provide representation on that basis. Since an average case takes from 4 to 6 hours, four consultations will equal one case for the purpose of counting cases handled. This would function very much like a legal hot line.

Along with this, the Committee will develop a list of the types of cases each of the pro bono attorneys would accept on a fee-generating basis. If a client is determined to have a fee-generating case, the client will be sent a list of attorneys in his/her area that handle that type of case, an explanation that it appears to be fee-generating, and encouraged to contact one of the attorneys on that list. Again, it is a way of giving the client encouragement and "permission" to contact an attorney. It should also assist in recruiting additional attorneys to join the Pro Bono Panel.

Expected Results/Benchmarks:

It is expected that an additional 50 clients would be able to receive basic legal counsel about their rights, be better able to plan a course of action, avoid a problem, or obtain actual representation through the consultation/fee generating list mechanisms.

Costs:

ILS Staff time
Malpractice Insurance Premiums
Printing and Mailing and communication costs for recruiting, referring, etc.

EXISTING SERVICE/PROGRAM

Service/Program Name: Indiana Legal Services, Inc.

Lafayette Office

Mailing Address: 639 Columbia Street

P.O. Box 1455

Lafayette, IN 47902

Phone: (765) 423-5327

Contact Person: Rick McKinniss **Title:** Pro Bono Coordinator

Sponsoring Agency: Indiana Legal Services **Phone:** (317) 631-9410

Agency Director: Norman P. Metzger, Executive Director

Service/Program Information:

Target Population: Low income and elderly

Eligibility Requirements: 125% Poverty; for elderly, over age 60, income waived, office resource guidelines.

Service Area: Benton, Carroll, Cass, Clinton, Fountain, Fulton, Howard, Miami, Montgomery, Newton, Tippecanoe, Wabash, Warren and White counties.

Type of Service/Program:

Estimate of Expense per Year: _____

Funding Source(s): Legal Services Corporation, Indiana Civil Legal Aid Fund, Title II through the Area Four and Area Five Councils on Aging

Service /Program Description: Indiana Legal Services is a private, non-profit corporation. Legal Services provides free legal assistance for eligible low-income and elderly clients from its thirteen local offices throughout Indiana. Legal Services assists people who cannot afford a private attorney with legal problems in areas such as housing, income protection, consumer, health and family law. The Program advocates on behalf of its clients before administrative bodies such as the Social Security Administration, the Division of Family and Children (formerly known as the Welfare Department), the Unemployment office, housing authorities, township trustees, nursing homes, and in various state and federal courts.

EXISTING SERVICE/PROGRAM

Service/Program Name: Howard County Legal Aid Program

Mailing Address; c/o Brent Dechart
217 N. Main Street, P.O. Box 667
Kokomo, IN 46903

Phone: (765) 459-0764

Contact Person: Brent Dechart **Title:** Coordinator / Attorney

Sponsoring Agency: Howard County Bar Association **Phone:** _____

Agency Director: N/A

Service/Program Information:

Target Population: Low-Income Residents of Howard County

Eligibility Requirements: approximately 125% 1998 poverty, Resident of Howard County

Service Area: Howard County

Type of Service/Program:

Estimate of Expense per Year: N/A

Funding Source(s): N/A

Service /Program Description:

Howard County Legal Aid is a local voluntary program organized by the Howard County Bar Association. It serves only low-income residents of Howard County. Presently 23 attorneys participate in the legal aid program each one taking a week in turn on a rotational basis. The Legal Aid attorney meets with prospective clients on Tuesday afternoon in the Courthouse where the attorney screens clients and provides basic advice or schedules appointments for eligible clients needing more than advice. Because it is strictly a voluntary organization, statistics are not gathered.

**Legal Service Provider
Annual Progress Report**

July 1, 2001-June 30, 2001

| | |
|-------------------------------|---|
| | <u>Indiana Legal Services,</u> <u>Lafayette Office</u> <u>14 Counties</u> |
| Screened Cases | 1030 |
| Assigned Cases to Pro Bono | 45 |
| Closed Cases (pro Bono) | 32 |
| Declined Cases (by ILS) | 843 |
| Other Cases: (Handled by ILS) | 110 |
| | |
| Number of Volunteer Attorneys | 82 |

| | |
|-----------------------------------|--|
| List Number of Cases of Each Type | Legal Service Provider Indiana Legal Services, Lafayette Office 14 Counties |
| Consumer/Finance | 91 |
| Education | 2 |
| Employment | 3 |
| Family | 501 |
| Juvenile | 4 |
| Health | 112 |
| Housing | 174 |
| Income Maintenance | 112 |
| Individual Rights | 2 |
| Other* | 29 |
| Total Number of Cases | 1030 |

District Five
Annual Progress Report

July 2001-June 30, 2002

| | District Totals |
|-------------------------------|-----------------|
| Screened Cases | 341 |
| Assigned Cases (to pro bono) | 24 |
| Closed Cases (pro bono) | 9 |
| Declined Cases (by ILS) | 279 |
| Other Cases: (handled by ILS) | 29 |
| Total Cases per District | 341 |
| | |
| Number of Volunteer Attorneys | 32 |

| List Number of Cases of Each Type | District Totals |
|-----------------------------------|-----------------|
| Consumer/Finance | 34 |
| Education | 0 |
| Employment | 0 |
| Family | 162 |
| Juvenile | 1 |
| Health | 17 |
| Housing | 52 |
| Income Maintenance | 61 |
| Individual Rights | 1 |
| Other* | 13 |
| Total Number of Cases | 341 |
| | |

BUDGET FORM

| COST CATEGORY | IOLTA \$ | OTHER \$ | DONATED | TOTAL |
|---|--------------------|-----------------|----------------|--------------|
| A. Personnel Costs | | | | |
| 1. Lawyers | | | | |
| 2. Paralegals | | | | |
| 3. Others | | | | |
| 4. Salary Subtotal | | | | |
| 5. Employee Benefits | | | | |
| 6. Total Personnel Costs | | | | |
| B. Non Personnel | | | | |
| 1. Space | | | | |
| 2. Equipment Rental | | | | |
| 3. Office Supplies | | | | |
| 4. Telephone | | | | |
| 5. Travel | | | | |
| 6. Training | | | | |
| 7. Library | | | | |
| 8. Insurance | | | | |
| 9. Dues and Fees | | | | |
| 10. Audit | | | | |
| 11. Litigation | | | | |
| 12. Property Acquisition | | | | |
| 13. Purchase Payments | | | | |
| 14. Contract Services to Clients | | | | |
| 15. Contract Services to Program (through ILS) | \$18,000 ** | | | |
| 16. Other | | | | |

| | | | | |
|--|--|--|--|--|
| 17. Total Non Personnel Costs | | | | |
| C. Total Expenditures | | | | |
| 18. Project A Disbursements | | | | |
| 19. Project B Disbursements | | | | |
| 20. Project C Disbursements | | | | |
| 21. Total Program Disbursements | | | | |
| 22. Litigation Fund* | | | | |

*Reserves in this category are not required to be resubmitted to the IBF if not spent during the allocation calendar year.

**The District is pursuing a memorandum of understanding with Indiana Legal Services to administer its pro bono program in accordance with this plan and budget.

Budget for 2003

| | |
|---|-----------|
| Printing, mailing and distribution of printed materials (recruiting materials, handouts, pro se packets, PR materials) | \$2,000 |
| Mal Practice Insurance (through ILS) | \$500 |
| ILS Staff to provide services to District Five (Recruiting attorneys, processing applications, screening, referring, and follow-up of cases, attorney recognition, preparation of printed materials for the District, coordination of activities for the District) | \$12,000 |
| Travel | \$1,500 |
| Extraordinary litigation fund (set aside each year) | \$1,000 |
| Contingency fund (for unexpected expenses and unforeseen opportunities) | \$1,000 |
| Total | \$18,000* |

*The District is pursuing a memorandum of understanding with Indiana Legal Services to administer its pro bono program in accordance with this plan and budget.